

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DARRELL J.,

Plaintiff,

5:23-CV-0403
(GTS/DJS)

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

LAW OFFICES OF KENNETH HILLER PLLC
Counsel for Plaintiff
6000 North Bailey Avenue, Suite 1A
Amherst, New York 14226

JUSTIN M. GOLDSTEIN, ESQ.
MELISSA KUBIAK, ESQ.

SOCIAL SECURITY ADMINISTRATION
OFFICE OF GENERAL COUNSEL
Counsel for Defendant
6401 Security Boulevard, 1520 Annex
Baltimore, Maryland 21235

SHANNON FISHEL, ESQ.

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

The above-captioned matter comes to this Court following a Report-Recommendation by United States Magistrate Daniel J. Stewart, filed on March 8, 2024, recommending that (1) Defendant's motion for judgment on the pleadings be denied, (2) Plaintiff's motion for judgment on the pleadings be granted, (3) Defendant's decision denying disability benefits be reversed, and (4) the case be remanded to Defendant for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Dkt. No. 15.) Objections to the Report-Recommendation have not been filed and the time in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing all of the papers herein, including Magistrate Judge Stewart's thorough Report-Recommendation, the Court can find no clear error in the Report-Recommendation.¹ Magistrate Judge Stewart employed the proper legal standards, accurately recited the facts, and correctly applied the law to those facts. (Dkt. No. 15.) As a result, the Report-Recommendation is accepted and adopted in its entirety.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 15) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Defendant's motion for judgment on the pleadings (Dkt. No. 13) is **DENIED**; and it is further

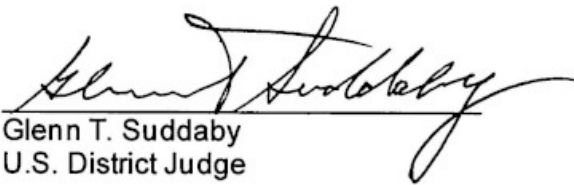
ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 11) is **GRANTED**; and it is further

ORDERED that Defendant's decision denying disability benefits is **REVERSED**; and it is further

ORDERED that this matter is **REMANDED** to the Commissioner of Social Security for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear-error review, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) ("I am permitted to adopt those sections of [a magistrate judge's] report to which no specific objection is made, so long as those sections are not facially erroneous.") (internal quotation marks omitted).

Dated: May 6, 2024
Syracuse, New York



Glenn T. Suddaby
U.S. District Judge